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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,745	09/08/2003	Paul Beltran	BELTRAN01	1136
34399	7590	10/24/2006	EXAMINER	
GARLICK HARRISON & MARKISON P.O. BOX 160727 AUSTIN, TX 78716-0727			WOOD, KIMBERLY T	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/657,745	BELTRAN, PAUL
	Examiner Kimberly T. Wood	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 August 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 10-15,22-27 and 32-37 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9,16-21 and 28-31 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 16 August 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

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This is an office action for serial number 10/657,745.

***Election/Restrictions***

Claims 10-15, 22-27, and 32-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species (as confirmed in telephone interview of March 2, 2006), there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on February 27, 2006.

This application contains claims 10-15, 22-27, and 32-37 drawn to an invention nonelected with traverse in as confirmed in telephone interview of March 2, 2006 and traversed in reply filed on February 27, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Drawings***

The drawings were received on August 16, 2006. These drawings are approved.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 16-21, and 28-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Burrell et al. (Burrell) 3,753,543. Burrell discloses a base (24) having a neck (25) and a stand (26), a retaining section comprising a first section (40) and a second section (42) and a tension mechanism/securing mechanism (46), a brace (10) with adjustable mechanical coupling (38).

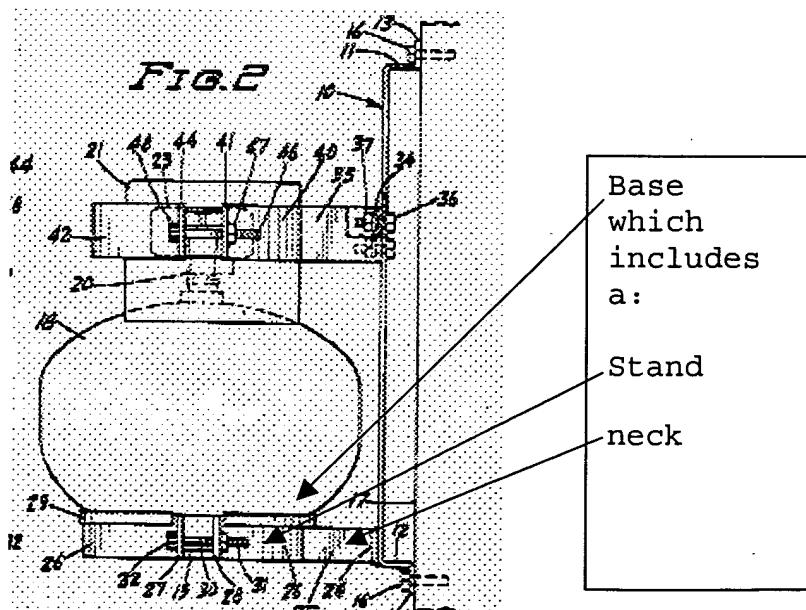
***Response to Arguments***

Applicant's arguments filed August 16, 2006 have been fully considered but they are not persuasive.

In response to applicant's arguments that Burrell does not teach or suggest a base having a first geometric shape in a first plane to support the container, this argument is herein traversed. Burrell clearly teaches "a base having a first geometric shape in a first plane" as claimed in claim 1 but is

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further defined within claim 4 to include "a neck and a stand, wherein the stand provides the support for the container and the neck provides the mechanical coupling between the stand and the brace". Burrell clearly teaches as shown in the figure below that the base (24) includes a neck (25) and a stand (26) for supporting a container (18). The applicant also argues that the support ring/stand(as referred to by the examiner within the office action) supports or engages the container and not the base however; as pointed out by the applicant's arguments and applicant's own claims Burrell's the base (24) is made up of various parts that form the base which include the support ring/stand (26) and therefore meets the applicant's claimed invention.



**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 571-272-6826. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the

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organization where this application or proceeding is assigned is  
571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kimberly I. Wood  
Primary Examiner  
Art Unit 3632

October 18, 2006